



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Ms. Nancy Hylden, Esq.
Faegre & Benson, LLP
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, Minnesota 55402-3901

FEB 11 2009

RE: MUR 6106
Minnesota Corn Growers Association
Minnesota Corn Growers Association PAC
MN Corn PAC

Dear Ms. Hylden:

On February 5, 2009, the Federal Election Commission accepted the signed conciliation agreement submitted on your clients' behalf in settlement of the Minnesota Corn Growers Association's violations of 2 U.S.C. § 441b(b)(4)(C) and (D); the Minnesota Corn Growers Association PAC's violations of 2 U.S.C. § 433(b)(2); and MN Corn PAC's violations of 2 U.S.C. §§ 433, 434, 441a(a)(1), 441b(a) and 11 C.F.R. § 102.5 (a)(2), provisions of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in cursive script that reads "Kathryn J. Lefebvre".

Kathryn J. Lefebvre

Enclosure
Conciliation Agreement

29044224652

BEFORE THE FEDERAL ELECTION COMMISSION

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In the Matter of)
) MUR 6106
Minnesota Corn Growers Association)
Minnesota Corn Growers Association PAC)
and Michael McCarvel, in his official capacity)
as treasurer)
MN Corn PAC and Michael McCarvel, in his)
Official capacity as treasurer)

CONCILIATION AGREEMENT

This matter was initiated by a *sua sponte* submission filed with the Federal Election Commission ("the Commission") by the Minnesota Corn Growers Association, pursuant to information ascertained in the normal course of carrying out the Commission's supervisory responsibilities. See 2 U.S.C. § 437g(a)(2).

In the submission, the Minnesota Corn Growers Association ("MCGA") disclosed information showing that MN Corn PAC, MCGA's state PAC, violated the Federal Election Campaign Act of 1971, as amended ("the Act") by failing to register and report as a political committee, accepting prohibited contributions, making excessive contributions, and accepting funds used in connection with federal elections without the required notices; that MCGA PAC, MCGA's separate segregated fund registered with the Commission, violated the Act by failing to disclose its affiliation with MN Corn PAC; and that MCGA violated the Act by soliciting outside its restricted class. Based on the self-disclosed facts and other available information, the Commission found reason to believe that MN Corn PAC and Michael McCarvel, in his official capacity as treasurer, violated 2 U.S.C. §§ 433, 434, 441a(a)(1), 441b(a) and 11 C.F.R.

§ 102.5(a)(2), MCGA PAC and Michael McCarvel, in his official capacity as treasurer, violated 2 U.S.C. § 433(b)(2), and MCGA violated 2 U.S.C. §§ 441b(b)(4)(C) and (D).

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

Applicable Law

1. The Act defines a political committee as “any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year.” 2 U.S.C. § 431(4)(A).

2. The Act defines the term “contribution” as including “anything of value made by any person for the purpose of influencing any election for federal office.” 2 U.S.C. § 431(8)(A)(i).

3. The Act requires all political committees to register with the Commission and file a Statement of Organization within ten days of becoming a political committee, which includes, *inter alia*, the name, address, and type of committee; and the name, address,

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1 relationship, and type of any connected organization or affiliated committee. 2 U.S.C. § 433.

2 An affiliated committee is a committee that is established, financed, maintained or controlled by
3 the same...person or group of persons. 11 C.F.R. § 100.5(g)(2).

4 4. Each treasurer of a political committee shall file periodic reports of the
5 committee's receipts and disbursements with the Commission. 2 U.S.C. § 434(a)(1). In the case
6 of committees that are not authorized committees of a candidate for federal office, these reports
7 shall include, *inter alia*, the amount of cash on hand at the beginning of the reporting period,
8 2 U.S.C. § 434(b)(1); the total amounts of the committee's receipts for the reporting period and
9 for the calendar year to date, 2 U.S.C. § 434(b)(2); and the total amounts of the committee's
10 disbursements for the reporting period and the calendar year to date. 2 U.S.C. § 434(b)(4).

11 5. The Act states that no labor organization may make a contribution and no
12 political committee or other person shall knowingly accept a contribution from a labor
13 organization in connection with any election. 2 U.S.C. § 441b(a).

14 6. The Act states that no person shall make contributions to any candidate and
15 his authorized political committees with respect to any election for federal office which, in the
16 aggregate, exceed \$2,100. 2 U.S.C. §§ 441a(a)(1)(A), 441a(c)(1)(B),(C). (2005-2006)

17 7. The Act and the Commission's Regulations limit a membership trade
18 association's solicitations for contributions for its separate segregated fund to the restricted class,
19 namely the members of such organization. 2 U.S.C. §§ 441b(b)(4)(C) and (D), 11 C.F.R.
20 § 114.7(c).

21 Factual Background

22 8. The Respondents are MCGA, an incorporated nonprofit membership trade
23 association of corn farmers, MCGA's separate segregated fund, Minnesota Corn Growers

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1 Association PAC, and Michael McCarvel in his official capacity as treasurer, ("MCGA PAC")
2 and MCGA's state PAC, MN Corn PAC, and Michael McCarvel, in his official capacity as
3 treasurer ("MN Corn").

4 9. MCGA PAC registered with the Commission on November 22, 2005. MCGA
5 PAC filed reports with the Commission in 2005 and in 2006, but consistently disclosed only
6 \$550.00 total in unitemized contributions/cash on hand, with no other receipts, disbursements,
7 debts or obligations, in each report during that time period. The Commission notified MCGA
8 PAC on January 25, 2007 that it would be administratively terminated on February 25, 2007 for
9 inactivity, but that any receipt or disbursement of funds for federal elections would void the
10 administrative termination.

11 10. MN Corn has never registered as a political committee with the Commission.
12 From 2000-2007, it reported all its activity, both federal and non-federal, to the Minnesota
13 Campaign Finance and Public Disclosure Board.

14 11. MN Corn's contribution activity demonstrates that its major purpose, from at
15 least 2004 to 2007, was to support federal candidates. MN Corn's total contributions to federal
16 candidates were \$11,750 in 2004, \$11,650 in 2005, \$32,500 in 2006 and \$7,650 in 2007, which
17 surpassed its contributions to state candidates by \$7,000 in 2004, \$6,945 in 2005, \$22,525 in
18 2006 and \$6,950 in 2007.

19 12. MN Corn used funds in conjunction with federal elections from 2000-2007
20 that were not designated for a federal account and not solicited with an express statement that the
21 contribution would be used in connection with a federal election. Moreover, MN Corn did not
22 inform its contributors that all contributions are subject to the prohibitions and limitations of the
23 Act.

1 13. MN Corn may have accepted prohibited contributions from the Southern
2 Minnesota Sugar Cooperative, a state PAC registered in Minnesota, in the amounts of \$2,000 in
3 2000, \$1,000 in 2002, \$1,500 in 2003, \$2,500 in 2004 and \$2,500 in 2005. The funds may not
4 have been federally compliant because Minnesota law allows labor organizations to contribute to
5 state PACs in amounts under \$100, which is prohibited by the Act.

6 14. MN Corn made excessive contributions to federal candidates. In 2005, MN
7 Corn made a \$2,500 contribution to Senator Norm Coleman and a \$3,000 contribution to
8 Congressman Mark Kennedy. In 2006, MN Corn made a \$5,000 contribution to Senator Saxby
9 Chambliss, a \$3,000 contribution to Congressman Gilbert Gutknecht and a \$3,000 contribution
10 to Congressman Collin Peterson.

11 15. MCGA PAC failed to disclose its affiliation with MN Corn on its Statement
12 of Organization when it registered with the Commission on November 22, 2005 as a separate
13 segregated fund of MCGA.

14 16. MCGA solicited the general public to contribute to MN Corn at its annual
15 auction fundraiser by advertising through *Corn Talk*, a MCGA publication, which is featured
16 publically on its web page in addition to being sent to its members, and by holding the auction at
17 the MN Ag Expo, MCGA's annual trade and education show, which was open to all corn
18 farmers, not just MCGA members.

19 17. In 2006, a representative of the Respondents spoke to the Commission's
20 Reports Analysis Division ("RAD") concerning the propriety of MN Corn making contributions
21 in connection with federal elections. RAD told the Respondent's representative that this activity
22 was not permissible and how to correct it. Respondents did not promptly correct the situation or
23 bring it to the attention of the Commission

1 18. In 2008, MCGA PAC filed with the Commission its missing disclosure
2 reports and amended its previously filed reports for the years 2000-2007. The reports include all
3 federal activity by MN Corn and MCGA PAC during those years.

4 V. Respondents committed the following violations:

5 1. MN Corn violated 2 U.S.C. §§ 433 and 434 by failing to register and report as
6 a political committee with the Commission.

7 2. MN Corn violated 2 U.S.C. § 441b(a) by accepting funds that may have been
8 from prohibited sources.

9 3. MN Corn violated 11 C.F.R. § 102.5(a) by accepting funds that were not
10 designated for use in connection with federal elections.

11 4. MN Corn violated 2 U.S.C. § 441a(a)(1) by making excessive contributions to
12 federal candidates.

13 5. MCGA PAC violated 2 U.S.C. § 433(b)(2) by failing to disclose its affiliation
14 with MN Corn to the Commission on its Statement of Organization.

15 6. MCGA violated 2 U.S.C. § 441b(b)(4)(C) and (D) by soliciting outside its
16 restricted class for contributions.

17 VI. Respondents will take the following actions:

18 1. Respondents will pay a civil penalty to the Federal Election Commission in
19 the amount of Eight Thousand Dollars (\$8,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

20 2. Respondents will hire outside counsel to monitor compliance and review
21 reports before submission to the Commission for one year following the execution of this
22 agreement.

1 3. MN Corn will cease and desist from violating 2 U.S.C. §§ 433, 434,
2 441a(a)(1), 441b(a) and 11 C.F.R. § 102.5(a)(2); MCGA PAC will cease and desist from
3 violating 2 U.S.C. § 433(b)(2); and MCGA will cease and desist from violating 2 U.S.C.
4 §§ 441b(b)(4)(C) and (D).

5 VII. In determining the appropriate civil penalty for this case, the Commission
6 considered the following factors:

7 1. Respondents informed the Commission of potential violations before the
8 violations had been or were about to be discovered by an outside party, including the
9 Commission, but not immediately after discovering them.

10 2. Respondents have committed to instituting practices, procedures and policies
11 to prevent future violations of the Act.

12 3. Respondents filed and amended reports to correct past errors.

13 4. Respondents fully cooperated with the Commission in ensuring that the *sua*
14 *sponte* was complete and accurate.

15 VIII. The Commission, on request of anyone filing a complaint under 2 U.S.C
16 § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance
17 with this agreement. If the Commission believes that this agreement or any requirement thereof
18 has been violated, it may institute a civil action for relief in the United States District Court for
19 the District of Columbia.

20 IX. This agreement shall become effective as of the date that all parties hereto have
21 executed same and the Commission has approved the entire agreement.


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1 X. Except as otherwise provided, Respondents shall have no more than 30 days from the
2 date this agreement becomes effective to comply with and implement the requirements contained
3 in this agreement and to so notify the Commission.

4 XI. This Conciliation Agreement constitutes the entire agreement between the parties on
5 the matters raised herein, and no other statement, promise, or agreement, either written or oral,
6 made by either party or by agents of either party, that is not contained in this written agreement
7 shall be enforceable.

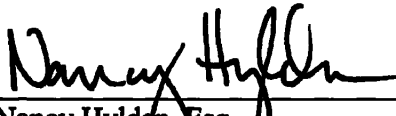
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9 FOR THE COMMISSION:

10 Thomasenia P. Duncan
11 General Counsel
12

13 BY: 
14 Ann Marie Terzaken
15 Associate General Counsel
16 for Enforcement
17

2/11/09
Date

18 FOR THE RESPONDENTS:

19 
20 Nancy Hylden, Esq.
21 Counsel for Respondents
22
23

Dec. 30 2008
Date